

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>THOMAS J. KAWA,</b>	)	<b>CASE NO. 8:08CV91</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>US BANK, NA; DUANE STREMPKE,</b>	)	<b>MEMORANDUM</b>
<b>Individually and in his Official</b>	)	<b>AND ORDER</b>
<b>Capacity; BIORN CORPORATION;</b>	)	
<b>HS FINANCIAL GROUP, LLC; and</b>	)	
<b>UNIFUND CCR PARTNERS,</b>	)	
	)	
<b>Defendants.</b>	)	

This matter is before the Court on the Plaintiff's Motion for Reinstatement of Case and to Reset Progression Order Deadlines (Filing No. 99).

The factual and procedural background of this case is described in detail in the Court's Memoranda and Orders appearing at Filing Nos. 35, 57, and 96, ruling on motions to dismiss, and dismissing certain claims. On October 1, 2009, Judgment was entered in favor of the Defendants and the Plaintiff's remaining claims were dismissed, without prejudice, for failure to prosecute with reasonable diligence. ("At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution." NECivR 41.2.)

The Plaintiff, Thomas J. Kawa ("Kawa") now seeks to reinstate his action, noting that his "previous counsel left the practice of law and Plaintiff was unaware that there were pending deadlines in the case." (Filing No. 99, p.1). Kawa submitted no brief or evidence in support of his motion. The Defendants oppose the motion, noting that, if it is construed as one for relief from a final judgment under Fed. R. Civ. P. 60, no grounds for such relief have been shown. The Court agrees, finding no reason to conclude that

the neglect of the prosecution of Kawa's claims was "excusable," and finding no "other reason that justifies [the] relief" Kawa requests. (See Fed. R. Civ. P. 60(b)(1), (6).)

Accordingly,

IT IS ORDERED:

The Plaintiff Thomas J. Kawa's Motion for Reinstatement of Case and to Reset Progression Order Deadlines (Filing No. 99) is denied.

DATED this 16<sup>th</sup> day of December, 2009.

BY THE COURT

s/Laurie Smith Camp  
United States District Judge